

Docket: UDC-20201 CON

## REMARKS

### Status of the Claims

Claims 1-32 and 44-55 are pending herein. Claims 1-32 are withdrawn.

New claims 56-58 have been added to present members of the Markush group of claim 44 (in addition to the OLED device, which is found in claim 51).

### Restriction/Election

The Office Action indicates that the Applicant is required under 35 U.S.C. §121 to choose between the following: Species 1 (claims 1-8), Species 2 (claims 9-32) and Species 3 (claims 44-55).

Because the Office Action indicates that a reply *must* include an identification of the species that is elected, Applicant hereby elects so-termed Species 1, claims 44-55, for initial prosecution on the merits.

That being said, it is not believed that a species election is proper under the present circumstances. In particular, 37 CFR § 1.146, *Election of species*, reads as follows (emphasis added):

In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

Hence, species elections are applicable where a generic claim to a generic invention is present, and the generic claim embraces several patentably distinct species.<sup>1</sup> The three alleged species in Office Action, on the other hand, each contains its own independent (generic) claim.

In this regard, when responding telephonically to the Examiner, the undersigned attorney was under the impression that the Examiner was requesting a response to a requirement for

---

<sup>1</sup> The requirement of a generic claim is also implicit in the Office Action, which states the following (emphasis added): "Applicant is required under 35 U.S.C. 121 to elect a single

Docket: UDC-20201 CON

*restriction* between three groups of claims, Group I (claims 1-8), Group II (claims 9-32) and Group III (claims 44-55), rather than a requirement for *election* between three patentable distinct species embraced by a generic claim.

Group III (claims 44-55) was selected at that time, with traverse, because it was and is believed that a search and examination of the entire application can be made without serious burden. To the extent that the Examiner had intended restriction between Groups I-III, rather than election between Species 1-3, election of Group III (claims 44-55) is hereby affirmed.

**Rejection under 35 USC § 102(e)**

Claims 44-55 are rejected under 35 USC § 102(e) as anticipated by U.S. Patent No. 6,576,351 B2 to Silvernail (Silvernail). Applicant respectfully traverses this rejection and its supporting remarks.

For example, claim 44, the only independent claim within rejected claims 44-55, is directed to an organic optoelectronic device structure comprising: (a) a substrate; (b) an organic optoelectronic device disposed over the substrate; and (c) a barrier region disposed over the organic optoelectronic device, said barrier region comprising a plurality of cooperative barrier layers, said plurality of cooperative barrier layers further comprising a planarizing layer and a high-density layer, wherein said high-density layer is disposed over said planarizing layer in a manner such that said high-density layer extends to said substrate layer and, in conjunction with said substrate layer, completely surrounds said planarizing layer.

The Office Action suggests that such as device structure is illustrated in Fig. 6 of Silvernail. FIG. 6 of Silvernail illustrates an OLED structure 190 in which an OLED 140 is disposed on a barrier region 120 like that of FIG. 1 (of Silvernail). Silvernail, col. 7, lines 1-7. To protect the OLED 140 from the surrounding environment, an additional barrier region 150 is secured to the barrier region 120 by adhesive region 130. *Id.* Preferably, the second barrier layer 150 is not in contact with the OLED 140 as shown. *Id.* From Fig. 1 and its associated description, it is seen that the barrier region 120 contains upper and lower polymer substrates 110a, 110b, planarizing layers 121a-e, and high-density layers 122a-d. *Id.* at col. 4, lines 29-33.

---

disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable."

Docket: UDC-20201 CON

Contrary to the Office Action, however, it is respectfully submitted that the features of claim 44 are not described in Fig. 6 of Silvernail.

Silvernail does describe a barrier region 120 comprising a plurality of cooperative barrier layers, which further comprises planarizing and high-density layers. However, in Silvernail, the barrier region acts as a substrate, over which the organic optoelectronic device is disposed. In the claimed invention, on the other hand, the device structure comprises: (a) a substrate; (b) an organic optoelectronic device disposed over the substrate; and (c) a barrier region, disposed over the organic optoelectronic device, which comprises a plurality of cooperative barrier layers, which further comprise a planarizing layer and a high-density layer.

In other words, the multilayer barrier region in Fig. 6 of Silvernail is disposed *below* the organic device where it acts as a substrate, whereas the multilayer barrier region as claimed is disposed *over* the organic device.

Furthermore, claim 44 describes a high-density layer, which in conjunction with a substrate layer, completely surrounds a planarizing layer. This feature is absent from Fig. 6 of Silvernail.

For at least these reasons, it is submitted that claim 44 is not anticipated by Silvernail, nor are claims 45-58, which presently depend from claim 44.

Reconsideration and withdrawal of the rejection of claims 44-55 under 35 USC § 102(e) as anticipated by Silvernail are therefore requested.

### **CONCLUSION**

Applicant submits that all pending claims are in condition for allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's attorney at (703) 433-0510 in order that any outstanding issues be resolved.


### **FEES**

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

Docket: UDC-20201 CON

Attorney for Applicant  
Mayer Fortkort & Williams PC  
251 North Avenue West, 2<sup>nd</sup> Floor  
Westfield, NJ 07090  
Tel.: 703-433-0510  
Fax: 703-433-2362

Respectfully submitted,



David B. Bonham  
Registration No. 34,297

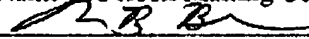
**Certificate of Facsimile Transmission**

I hereby certify that this document and any document  
referenced herein is being sent to the United States Patent  
and Trademark office via Facsimile to: 703-872-9318 on

February 15, 2005.

David B. Bonham

(Printed Name of Person Mailing Correspondence)



(Signature)